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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,615	11/29/2001	Kenneth B. Albritton	P56341	2308

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EXAMINER

MAI, TRI M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,615

Applicant(s)

ALBRITTON, KENNETH B.

Examiner

Tri M. Mai

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Handwritten initials

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) [ ] Responsive to communication(s) filed on \_\_\_\_\_.
2a) [ ] This action is FINAL. 2b) [x] This action is non-final.
3) [ ] Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) [x] Claim(s) 1-40 is/are pending in the application.
4a) Of the above claim(s) 1-23 and 28-31 is/are withdrawn from consideration.
5) [ ] Claim(s) \_\_\_\_\_ is/are allowed.
6) [x] Claim(s) 24-27 and 32-40 is/are rejected.
7) [ ] Claim(s) \_\_\_\_\_ is/are objected to.
8) [ ] Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) [ ] The specification is objected to by the Examiner.
10) [ ] The drawing(s) filed on \_\_\_\_\_ is/are: a) [ ] accepted or b) [ ] objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
11) [ ] The proposed drawing correction filed on \_\_\_\_\_ is: a) [ ] approved b) [ ] disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
12) [ ] The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) [ ] Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) [ ] All b) [ ] Some \* c) [ ] None of:
1. [ ] Certified copies of the priority documents have been received.
2. [ ] Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. [ ] Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
\* See the attached detailed Office action for a list of the certified copies not received.
14) [x] Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) [ ] The translation of the foreign language provisional application has been received.
15) [ ] Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) [x] Notice of References Cited (PTO-892)
2) [ ] Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) [x] Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,7.
4) [ ] Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
5) [ ] Notice of Informal Patent Application (PTO-152)
6) [ ] Other:

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## DETAILED ACTION

### *Election/Restrictions*

1. Claims 1-23, and 28-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

It is noted that the traversal as set forth in Paper No. 6 is not a traversal of the propriety of the requirement per se, but only related to whether certain of the claims are designated as generic or not. In other words, it is treated as an election **without traverse** since no reasons traversing the propriety of the requirement were set forth by the Applicant.

The traversal is on the grounds that certain claims are generic. This is not found persuasive because section 806.04(d) of the M.P.E.P defines a generic claim as follows:

In an application presenting three species illustrated, for example, in Figures 1, 2, and 3, respectively, a generic claim should read on each of these views; but the fact that a claim does so read is not conclusive that it is generic. It may define only an element or subcombination common to the several species. see MPEP § 809.02(c)(2).

In this case, the/these claim(s) contain(s) a subcombination common to the claimed species.

It is further noted that overlapping claims are not necessary generic claims.

Regarding the burden of search on the examiner, it is noted that each of the disclosed species require separate search exclusively for that species before patentability of the claims readable on that species is considered. Moreover, the searches for the disclosed species are not necessarily coincident.

The requirement is still deemed proper and is therefore made FINAL.

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*Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the straps in claims 24, the folding in claims 33, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Specification*

3. The terms "top portion" and "bottom portion" have no antecedent basis in the specification.

*Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 24-27, and 32-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 24, it is unclear what is this external object is.

The claims only recite a back wall of the bag. It is noted that the disclosed invention requires a plurality of wall to form the bag. These claims are incomplete for omitting essential elements that made up the claimed bag, such omission amounting to a gap between the elements.

See MPEP § 2172.01.

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Claim 24 is inconsistent. The claim recites a back wall (about portion 782) with a first unit connected to the top (about portion 718). Claim 24 then recites a fastening unit securing one end of the back wall with the other end of the back wall. It seems that the fastening portion (the zipper) do not attach two ends of the back wall together. Furthermore, it is unclear what comprises the back wall as set forth in the claim.

In claim 25, "opposite sides", "the top portion" have no antecedent basis.

In claim 26, it is unclear whether "opposite sides" is the same reference as "opposite sides" as set forth in claim 25.

In claim 25, "a first and second side wall" should be changed to "a first and second side walls"

In claim 25, "a first and second side portion" should be changed to "a first and second portions". It is unclear what elements are referred to.

In claim 27, it is unclear what comprises "a portion".

It is unclear what comprises the "second unit" in claim 32.

In claim 35, "and connect a bottom of said right wall..." is confusing.

It is unclear whether "the first wall" is the same as the back wall.

In claim 38, it is unclear what comprises this first unit in the elected species. Note that the elected species does not show a unit accommodating the hanging of garments along a length of the back wall. What is shown are compartments 770.

Due to the confusing nature of the claim language, applicant is required to provide a numeral identification of all claimed elements as shown in the elected species.

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*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claim 35 is rejected under 35 U.S.C. 102(e) as being anticipated by either Fournier (6193034), or Tong (6334519), or DeChant (6196718). Either Fournier or Tong teaches a back wall, left and right walls 4, first wall 14, a plurality of compartment comprising at least a partially see-through material, and a strap.

*Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. As best understood view of the 112 matters above, claims 24-27, 33, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fournier (6193034) in view of either Scott or Martz. Fournier teaches a bag having a back wall, a first unit 12, capable of hanging the back wall to an external object, a plurality of compartments, fastening units (see Figs. 3-4) securing one end of the back wall with the other end of the back wall. Fournier meets all

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claimed limitations except for the straps. Either Scott or Martz teaches that it is known in the art to provide a pair of straps. It would have been obvious to one of ordinary skill in the art to provide a pair of straps in Fournier as taught by either Scott or Martz to carry the bag easily.

Regarding claim 25, note the first and second sidewalls 4.

Regarding claims 32, 37, it is noted that portion 17 can be considered as the first unit, and portion is the second unit as claimed.

10. As best understood view of the 112 matters above, claims 24-27, 33, and 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Tong (6334519) or DeChant in view of either Scott or Martz. Either Tong or DeChant meets all claimed limitations with respect to the luggage except for the pair of straps. Either Scott or Martz teaches that it is known in the art to provide a pair of strap. It would have been obvious to one of ordinary skill in the art to provide a pair of straps in Tong as taught by either Scott or Martz to carry the bag easily.

11. As best understood view of the 112 matters above, claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combinations of Tong, Dechant, or Fournier, as set forth above, and further in view of King (2205205). It would have been obvious to one of ordinary skill in the art to provide the straps 29 and 30 in the combinations of Tong, Dechant, or Fournier as taught by King to provide an alternative means for securing the contents.


### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai   
Examiner  
Art Unit 3727

December 23, 2002